

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**PATRICK R. TREANOR, LORRAINE : CIVIL ACTION NO.**  
**KELLEY TREANOR, INDIVIDUALLY, AND : 11538-NMG**  
**AS PARENT AND NEXT FRIEND OF :**  
**MADELYN TREANOR, AND AS PARENT :**  
**AND NEXT FRIEND OF ALLISON TREANOR:**

**MAGISTRATE JUDGE**

v.

RECEIPT #:

AMOUNT \$:

**NATIONAL RAILROAD PASSENGER CORPORATION (a/k/a "AMTRAK") AND CSX TRANSPORTATION, INC.**

COMMONS ISSUED \_\_\_\_\_

AND RULE 4.1 \_\_\_\_\_

WAIVER FORM \_\_\_\_\_

MCF ISSUED \_\_\_\_\_

**NOTICE OF REMOVAL**

BY Party Clerk \_\_\_\_\_

DATE 10/10/05

Pursuant to 28 U.S.C. §§ 1441(a), 1441(b) and 1446, and for the sole purpose of removing this matter to the United States District Court of the District of Massachusetts, Defendants, National Railroad Passenger Corporation d/b/a Amtrak, ("Amtrak") and CSX Transportation, Inc. ("CSX"), state:

1. State Court Action.

Plaintiffs, Patrick R. Treanor and Lorraine Kelley Treanor, individually, and as parent and next Friend of Madelyn Treanor and Allison Treanor, filed this action against Defendant in the Superior Court of the Commonwealth of Massachusetts for Suffolk County, Civil Action No. SUCV2005-01467-A. Copies of the Summons and Complaint are attached as Exhibit A. The Summons and Complaint constitute all of the prior pleadings and/or orders served upon Defendants to date. The Summons and Complaint were served on Amtrak on July 11, 2005.

2. Federal Jurisdiction.

According to the Complaint, Plaintiffs allegedly suffered serious personal injury while on the property owned and/or maintained by Amtrak. Amtrak is removing this action because Amtrak was created by an Act of Congress, 49 U.S.C. §24101, *et seq.*, and more than one-half its capital stock is owned by the United States. Thus, the above-described action is a civil action of

which this Court has original jurisdiction under the provisions of Title 28, U.S.C. §1331 and 1349 and is one which may be removed to this Court by the defendant therein, pursuant to the provisions of Title 28, U.S.C. §1441.

CSX Transportation, Inc. assents to and joins in the removal of this action.

3. Diversity

As an additional and independent basis for removal, defendants state that there is complete diversity of the parties. As set forth in the Complaint, all named plaintiffs are citizens of Massachusetts and all named defendants are foreign corporations. Additionally, as set forth in the Statement of Damages, the amount in controversy exceeds \$75,000. Accordingly, this Court has original jurisdiction over this matter pursuant to Title 28, U.S.C. § 1332.

4. Timeliness of Notice of Removal.

Amtrak was served with the Summons and Complaint on July 11, 2005. Removal of this action is, therefore, timely under 28 U.S.C. §1446(b).

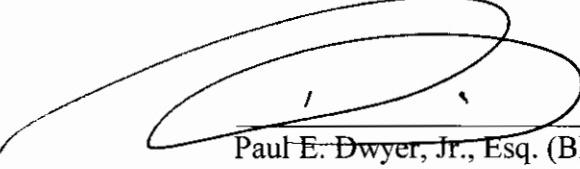
5. Relief Requested.

Defendants request that the United States District Court for the District of Massachusetts assume jurisdiction over the above-captioned action and issue such further orders and process as may be necessary to bring before it all parties necessary for the trial of this action. Pursuant to 28 U.S.C. § 1446(a), copies of all process and pleadings served upon Defendants are attached as

Exhibit A. Certified copies of the entries in the Superior Court docket will be filed in connection with Defendants' Local Rule 81.1 Statement.

Defendants,  
NATIONAL RAILROAD PASSENGER  
CORPORATION, and CSX  
TRANSPORTATION, INC.  
By and Through Their Attorneys,

Dated: July 18, 2005

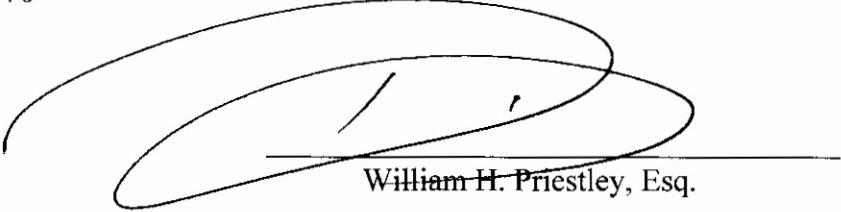


Paul E. Dwyer, Jr., Esq. (BBO #553848)  
William H. Priestley, Esq. (BBO #630627)  
EDWARDS & ANGELL, LLP  
2800 Financial Plaza  
Providence, RI 02903-2499  
Phone: (401) 274-9200  
Fax: (401) 276-6611

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of July, 2005, I served a copy of the within document by causing a copy to be sent via First Class U.S. Mail, postage pre-paid to the above-named counsel.

TO: Peter M. McElroy, Esquire  
Cosgrove, Eisenberg & Kiley, P.C.  
803 Hancock Street, P.O. Box 189  
Quincy, MA 02170



William H. Priestley, Esq.

# Commonwealth of Massachusetts

SUFFOLK, ss.



SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

08-1347  
No. \_\_\_\_\_

Patrick R. Treanor, et al Plaintiff(s)

National Railroad Passenger Corporation  
a/k/a "AMTRAK" and  
CSX Transportation, Inc.

RECEIVED  
Amtrak  
JUL 11 2005  
2005-00471  
ALICIA M. SERFATY  
GENERAL COUNSEL AND  
CORPORATE SECRETARY

RECEIVED  
JUL 15 2005

## SUMMONS

## Amtrak Passenger Claims Unit

To the above-named Defendant: National Railroad Passenger Corp. a/k/a "AMTRAK",  
David L. Gunn, President & CEO, 60 Massachusetts Ave., N.E., Washington, DC 20002

You are hereby summoned and required to serve upon Peter M. McElroy, Esq.  
Cosgrove, Eisenberg & Kiley, P. C.

plaintiff's attorney, whose address is 803 Hancock St, Quincy, MA 02170, an answer to  
the complaint which is herewith served upon you, within 20 days after service of this summons upon you,  
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the  
relief demanded in the complaint. You are also required to file your answer to the complaint in the office  
of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable  
time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which  
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject  
matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse  
Witness, S\_\_\_\_\_, Esquire, at Boston, the 7th day of  
July, in the year of our Lord two thousand five.

*Michael Joseph Donovan*

Clerk/Magistrate

### NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPT.  
CIVIL ACTION NO.:

PATRICK R. TREANOR,  
LORRAINE KELLEY TREANOR,  
INDIVIDUALLY, AND AS PARENT  
AND NEXT FRIEND OF  
MADELYN TREANOR, AND AS  
PARENT AND NEXT FRIEND OF  
ALLISON TREANOR

*Plaintiff*

v.

NATIONAL RAILROAD PASSENGER CORPORATION  
(a/k/a "AMTRAK") AND  
CSX TRANSPORTATION, INC.

*Defendants*

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**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

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1. The Plaintiff, Patrick R. Treanor is a resident of Dedham, Norfolk County, Massachusetts, and the husband of plaintiff, Lorraine Kelley Treanor.
2. The plaintiff, Lorraine Kelley Treanor is a resident of Dedham, Norfolk County, Massachusetts, and the wife of plaintiff Patrick R. Treanor.
3. The plaintiff, Lorraine Kelley Treanor, as parent and next friend of Madelyn Treanor, is a resident of Dedham, Norfolk County, Massachusetts.
4. The plaintiff, Lorraine Kelley Treanor, as parent and next friend of Allison Treanor, is a resident of Dedham, Norfolk County, Massachusetts.
5. The defendant, National Railroad Passenger Corporation (a/k/a "AMTRAK"), is a corporate entity organized under the laws of the District of Columbia and 49 U.S.C. §24101, *et*

*seq.*, with its usual place of business at 60 Massachusetts Avenue, N.E., Washington, D.C., and which regularly conducts business in Suffolk County and elsewhere in the Commonwealth of Massachusetts.

6. Defendant, CXS Transportation, Inc. ("CSX") is a corporate entity organized under the laws of Virginia with its usual place of business at 500 Water Street, Jacksonville, Florida and which regularly conducts business in Suffolk County and elsewhere in the Commonwealth of Massachusetts.

7. This action is brought to recover damages for the injuries suffered by the Plaintiffs due to the negligence of the Defendants.

#### **FACTUAL BACKGROUND**

8. On April 18, 2002, the Plaintiffs were ticketed passengers on board the The Auto Train, AMTRAK train PO52-18 traveling from Sanford, Florida to Lorton, Virginia. Their car was also on board the train.

9. At about 5:08 p.m., the four Plaintiffs, Patrick, Lorraine, Madelyn, and Allison Treanor, were passengers in the dining car of The Auto Train. Patrick and Allison were seated at a table, and Madelyn and Lorraine were in the process of being seated.

10. At or about 5:08 p.m., without warning, The Auto Train derailed as it rounded a curve, while traveling on a track that was owned and maintained by defendant CSX.

11. Patrick, Lorraine, Madelyn, and Allison Treanor were thrown violently about within their railcar.

12. The railcar rolled onto its side, finally coming to a stop. Before it did so, rock, dust, and other debris from outside flew in through broken windows, and people and items

within the car itself were also thrown violently about. The plaintiffs struck, and were struck, by such things.

13. At all relevant times, it was the duty of the Defendant, AMTRAK, to exercise the highest degree of care for the safety of its passengers, including Patrick R. Treanor, Lorraine Kelley Treanor, Madelyn Treanor, and Allison Treanor.

14. At all relevant times, it was the duty of the Defendant, CSX, to exercise the highest duty of care in the ownership, maintenance, operation and control of its railroad tracks, including those at or near Crescent City, Florida, so as not to cause injury to passengers aboard The Auto Train, inclusive of Patrick R. Treanor, Lorraine Kelley Treanor, Madelyn Treanor, and Allison Treanor, and in accordance with the requirements set forth in regulations of the Federal Railroad Administration, and additional duties relative to the ownership, maintenance, operations, and control of CSX railroad tracks.

15. As a result of the negligence of each Defendant, the Plaintiffs were seriously injured, suffered great pain of body and mind, required medical care, incurred substantial medical bills, and as to plaintiffs Patrick Treanor and Lorraine Kelley Treanor, incurred a loss of wages and earning capacity.

**COUNT I**  
**Negligence - Patrick R. Treanor**

16. The Plaintiff Patrick R. Treanor incorporates and reasserts paragraph 1- 15 of this complaint as if fully set forth herein.

17. The Defendants each owed the duty of reasonable care to Patrick R. Treanor.

18. The Defendants, their employees, and agents, were negligent on, and prior to, April 18, 2002 with respect to the operation of The Auto Train, AMTRAK #PO52-18, and the

ownership and maintenance of the tracks upon which this train ran, by, among other things, failing to maintain a safe rail system, and in failing to provide an adequate rail infrastructure, and failing to provide safe carriage of passengers and property.

19. The Defendants breached their respective duties of reasonable care owed to Patrick R. Treanor.

20. As a proximate result of the Defendants' breaches of duty, Patrick R. Treanor was seriously injured, suffered great pain of body and mind, has required medical care, has incurred substantial medical expenses, and also incurred a loss of wages and earning capacity.

**COUNT II**  
**Negligence - Lorraine Kelley Treanor**

21. Plaintiff incorporates and reasserts paragraphs 1-20 of this complaint as if fully set forth herein.

22. The Defendants each owed the duty of reasonable care to Lorraine Kelley Treanor.

23. The Defendants, their employees, and agents, were negligent on, and prior to, April 18, 2002 with respect to the operation of The Auto Train, AMTRAK #PO52-18, and the ownership and maintenance of the tracks upon which this train ran, by, among other things, failing to maintain a safe rail system, and in failing to provide an adequate rail infrastructure, and failing to provide safe carriage of passengers and property.

24. The Defendants breached their respective duties of reasonable care owed to Lorraine Kelley Treanor.

25. As a proximate result of the Defendants' breaches of duty, Lorraine Kelley Treanor was seriously injured, suffered great pain of body and mind, has required medical care,

has incurred substantial medical expenses, and also incurred a loss of wages and earning capacity.

**COUNT III**  
**Negligence - Lorraine Kelley Trainer ppa Madelyn Treanor**

26. The Plaintiff Lorraine Kelley Treanor, as parent and next friend of Madelyn Treanor, incorporates and reasserts paragraphs 1-25 of this complaint as if fully set forth herein.

27. The Defendants each owed the duty of reasonable care to Madelyn Treanor.

28. The Defendants, their employees, and agents, were negligent on, and prior to, April 18, 2002 with respect to the operation of The Auto Train, AMTRAK #PO52-18, and the ownership and maintenance of the tracks upon which this train ran, by, among other things, failing to maintain a safe rail system, and in failing to provide an adequate rail infrastructure, and failing to provide safe carriage of passengers and property.

29. The defendants breached their respective duties of reasonable care owed to Madelyn Treanor.

30. As a proximate result of the defendants' breaches of duty, Madelyn Treanor was seriously injured, suffered great pain of body and mind, has required medical care, and has incurred substantial medical expenses.

**COUNT IV**  
**Negligence - Lorraine Kelley Trainer ppa Allison Treanor**

31. The plaintiff Lorraine Kelley Treanor, as parent and next friend of Allison Treanor incorporates and reasserts paragraphs 1-30 of this complaint as if fully set forth herein.

32. The Defendants each owed the duty of reasonable care to Allison Treanor.

33. The Defendants, their employees, and agents, were negligent on, and prior to, April 18, 2002 with respect to the operation of The Auto Train, AMTRAK #PO52-18, and the

ownership and maintenance of the tracks upon which this train ran, by, among other things, failing to maintain a safe rail system, and in failing to provide an adequate rail infrastructure, and failing to provide safe carriage of passengers and property.

34. The Defendants breached their respective duties of reasonable care owed to Allison Treanor.

35. As a proximate result of the Defendants' breaches of duty, Allison Treanor was seriously injured, suffered great pain of body and mind, has required medical care, and has incurred substantial medical expenses.

**COUNT V**  
**Loss of Consortium - Patrick R. Treanor**

36. The Plaintiff Patrick R. Treanor incorporates and reasserts paragraphs 1-35 of this complaint as if fully set forth herein.

37. As a result of the negligence of the Defendants, the plaintiff, Patrick R. Treanor has suffered a loss of consortium, including the loss of care, comfort, society, and companionship, of his wife, Lorraine Kelley Treanor.

**COUNT VI**  
**Loss of Consortium - Lorraine Kelley Treanor**

38. The Plaintiff Lorraine Kelly Treanor incorporates and reasserts paragraphs 1-37 of this complaint as if fully set forth herein.

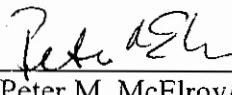
39. As a result of the negligence of the Defendants, the Plaintiff, Lorraine Kelley Treanor has suffered a loss of consortium, including the care, comfort, society, and companionship of her husband, Patrick R. Treanor.

**WHEREFORE**, the Plaintiffs pray that judgment be entered against the Defendants in an amount which will fairly and adequately compensate them for their injuries, and all other damages recoverable, together with interest, costs, attorney's fees, and such other relief as may be deemed appropriate.

**PLAINTIFFS DEMAND TRIAL BY JURY**

The plaintiffs demand trial by jury on each of their claims, and on each defense that may be so triable.

Respectfully submitted,  
For the Plaintiffs, Patrick R. Treanor,  
Lorraine Kelley Treanor, Individually and as parent  
And next friend of Madelyn Treanor, and as parent  
And next friend of Allison Treanor  
By their Attorney,

  
Peter M. McElroy, Esq.  
Cosgrove, Eisenberg & Kiley, P.C.  
803 Hancock Street, P.O. Box 189  
Quincy, MA 02170  
(617) 479-7770  
BBO No. 332480

Dated: April 15, 2005

|  |   |  |  |
|--|---|--|--|
| <b>CIVIL ACTION COVER SHEET</b>  |   | DOCKET NO.(S)  | Trial Court of Massachusetts<br>Superior Court of Massachusetts<br>County: Suffolk |
| PLAINTIFF(S)<br><b>Patrick R. Treanor, Lorraine Kelley Treanor, Individually, and ppa Madelyn Treanor, and ppa</b><br>ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE<br><b>Allison Treanor</b><br><b>Peter M. McElroy, Esq., Cosgrave, Eisenberg &amp; Kiley</b><br>803 Hancock St., Quincy, MA 02170<br>Board of Bar Overseers number 332480 (617) 479-7770 |   | DEFENDANT(S)<br><b>National Railroad Passenger Service (a/k/a "AMTRAK") and CSX Transportation Inc.</b><br>ATTORNEY (if known)<br><b>Unknown</b> | Corporation  |
| Origin code and track designation  |   |  |  |
| Place an x in one box only:  |   |  |  |
| <input checked="" type="checkbox"/> 1. F01 Original Complaint<br><input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104<br>(Before trial) (F)<br><input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)  |   |  |  |
| TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)  |   |  |  |
| CODE NO.   | TYPE OF ACTION (specify)  | TRACK  | IS THIS A JURY CASE?   |
| B99  | Common Carrier  | (F )   | (X ) Yes      ( ) No   |
| <b>The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages on</b>   |   |  |  |
| <b>TORT CLAIMS</b> PATRICK TREANOR<br>(Attach additional sheets as necessary)  |   |  |  |
| A. Documented medical expenses to date:  | 1. Total hospital expenses ..... \$ . . . . .<br>2. Total Doctor expenses ..... \$ . . . . .<br>3. Total chiropractic expenses ..... \$ . . . . .<br>4. Total physical therapy expenses ..... \$ . . . . .<br>5. Total other expenses (describe) ..... \$ . . . . . |  |  |
|  | Subtotal \$ . . . . .   |  |  |
| B. Documented lost wages and compensation to date  | \$ . . . . .  |  |  |
| C. Documented property damages to date   | \$ . . . . .  |  |  |
| D. Reasonably anticipated future medical and hospital expenses   | \$ . . . . .  |  |  |
| E. Reasonably anticipated lost wages   | (present value) \$ . . . . .  |  |  |
| F. Other documented items of damages (describe)  | \$ . . . . .  |  |  |
| G. Brief description of plaintiff's injury, including nature and extent of injury (describe)   |   |  |  |
| Patrick R. Treanor suffered:<br>Fracture of L1 vertebrae, compression fracture of T12, Chronic mid and low back pain, sciatica, contusions.  |   |  |  |
| \$ . . . . .   |   |  |  |
| <b>TOTAL \$ . . . . .</b>  |   |  |  |
| 2,056,090.00   |   |  |  |

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

**TOTAL \$.....**

**PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR  
COURT OR DEPARTMENT**

**Article 5 of the Supreme Judicial Court Rules**

**Plaintiff:****Lorraine Kelley Treanor:**

A. Documented medical expenses to date.....

|                                 |                        |
|---------------------------------|------------------------|
| 1. Total hospital expenses..... | \$1720.22              |
| 2. Total Doctor expenses.....   | \$3675.00              |
|                                 | Subtotal.....\$5395.22 |

B. Documented lost wages and compensation to date .....\$24,005.34

D. Reasonably anticipated future medical expenses and hospital expenses.....\$30,000.00

E . Reasonably anticipated lost wages.....\$20,000.00

Total:.....\$79,400.56

G. Brief description of plaintiff's injury.....

Lorraine Kelley Treanor was diagnosed with a fracture of the transverse process at L4-L5, seven rib fractures, neck and low back strains/sprains, disc bulges at multiple levels, and contusions.

Subtotal:.....\$300,000

Total:.....\$379,400.56

dical expenses to date.....

|                        |           |             |
|------------------------|-----------|-------------|
| Expenses.....          | \$145.00  | ....\$80.00 |
| Hospital expenses..... | \$1709.00 | ....\$      |
|                        |           | ....\$80.00 |
| Subtotal.....          | \$1854.00 |             |

|  |    |             |
|--|----|-------------|
| past wages and compensation to date .....                      | \$ | ....\$      |
| Anticipated future medical expenses and hospital expenses..... | \$ | ....\$      |
| Anticipated lost wages.....                                    | \$ | ....\$      |
| Total:.....  | \$ | ....\$80.00 |

caused by plaintiff's injury.....

Plaintiff was diagnosed with a concussion and possible head injury. Diagnostic tests were negative for a closed head injury and subdural bleed. The final diagnosis was post-concussive syndrome, including migraine headaches. The plaintiff continues to experience post accident nightmares and excessive fears about travel.

Subtotal:.....\$25,000.00

Plaintiff experienced significant anxiety in seeing her physician. She is concerned about the safety of traveling to her hometown.

.....\$15,000.00

Total:.....\$26,854.00

.....\$15,080.00

**Commonwealth of Massachusetts  
County of Suffolk  
The Superior Court**

CIVIL DOCKET# SUCV2005-01467-A

RE: **Treanor et al v National Railroad Passenger Corp et al**

TO:Peter M McElroy, Esquire  
Cosgrove Eisenberg & Kiley  
803 Hancock Street  
PO Box 189  
Quincy, MA 02170

**TRACKING ORDER - F TRACK**

You are hereby notified that this case is on the **fast (F) track** as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

| <b><u>STAGES OF LITIGATION</u></b>                      | <b><u>DEADLINE</u></b> |
|---|------------------------|
| Service of process made and return filed with the Court | 07/14/2005             |
| Response to the complaint filed (also see MRCP 12)      | 09/12/2005             |
| All motions under MRCP 12, 19, and 20 filed             | 09/12/2005             |
| All motions under MRCP 15 filed                         | 09/12/2005             |
| All discovery requests and depositions completed        | 02/09/2006             |
| All motions under MRCP 56 served and heard              | 03/11/2006             |
| Final pre-trial conference held and firm trial date set | 04/10/2006             |
| Case disposed   | 06/09/2006             |

The final pre-trial deadline is **not the scheduled date of the conference**. You will be notified of that date at a later time.

**Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.**

This case is assigned to session A sitting in CtRm 304, 3 Pemberton Square, Boston at Suffolk Superior Court.

Dated: 05/02/2005

Michael Joseph Donovan  
Clerk of the Courts  
BY: James P Kelly  
Assistant Clerk

Location: CtRm 304, 3 Pemberton Square, Boston  
Telephone: 617-788-8107

SEARCHED INDEXED SERIALIZED  
2005 C 1 107  
JULY 20 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) PATRICK R. TREANOR VS. NATIONAL RAILROAD PASSENGER CORPORATION

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 120 or AO 121  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,  
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,  
380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660  
690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES  NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division  Central Division  Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME William H. Priestley, Esquire

ADDRESS Edwards & Angell, LLP, 2800 Financial Plaza, Providence, RI 02903-2499

TELEPHONE NO. (401) 274-9200

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## (a) PLAINTIFFS

PATRICK R. TREANOR, LORRAINE KELLEY TREANOR, INDIVIDUALLY, AND AS PARENT AND NEXT FRIEND OF MADELYN TREANOR, AND AS PARENT AND NEXT FRIEND OF ALLISON TREANOR

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

NORFOLK

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Peter M. McElroy, Esquire (BBO #332480)  
Cosgrove, Eisenberg & Kiley, P.C.  
803 Hancock Street, P.O. Box 189  
Quincy, MA 02170  
Phone: (617) 479-7770

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- |  |   |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question<br>(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity<br>(Indicate Citizenship of Parties in Item III)   |

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX)

(For Diversity Cases Only)

| PT | DEF                        |   | PTF                        | DEF                        |
|----|----------------------------|---|----------------------------|----------------------------|
| F  |                            |   |                            |                            |
| 1  | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| 2  | <input type="checkbox"/> 2 | Incorporated and Principal Place of business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| 3  | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. CAUSE OF ACTION (CITE THE U.S. CIVIL, STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY):

Defendant, National Railroad Passenger Corp., was created by an act of Congress and more than one-half of its capital stock is owned by the United States. This Court has original jurisdiction pursuant to Title 28, U.S.C. §§1331 and 1339.

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

| CONTRACT  | TORTS  | FORFEITURE/PENALTY  | BANKRUPTCY   | OTHER STATUES  |
|---|--|---|--|--|
| <input type="checkbox"/> 110 Insurance  | PERSONAL INJURY  | PERSONAL INJURY   | <input type="checkbox"/> 422 Appeal 28 USC 158     | <input type="checkbox"/> 400 State Reapportionment                                     |
| <input type="checkbox"/> 120 Manne  | <input type="checkbox"/> 310 Airplane                          | <input type="checkbox"/> 362 Personal Injury - Med Malpractice          | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust   |
| <input type="checkbox"/> 130 Miller Act   | <input type="checkbox"/> 315 Airplane Product Liability        | <input type="checkbox"/> 365 Personal Injury - Product Liability        |  | <input type="checkbox"/> 430 Banks and Banking   |
| <input type="checkbox"/> 140 Negotiable Instrument                                | <input type="checkbox"/> 320 Assault, libel & Slander          | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability |  | <input type="checkbox"/> 450 Commerce/ICC Rates etc.                                   |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment    | <input type="checkbox"/> 330 Federal Employers' Liability      |   |  | <input type="checkbox"/> 460 Deportation   |
| <input type="checkbox"/> 151 Medicare Act   | <input type="checkbox"/> 340 Manne                             | PERSONAL PROPERTY   |  | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations            |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excl. Veterans) | <input type="checkbox"/> 345 Manne Product Liability           | <input type="checkbox"/> 370 Other Fraud                                | <input type="checkbox"/> 820 Copyrights            | <input type="checkbox"/> 810 Selective Service   |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits        | <input type="checkbox"/> 350 Motor Vehicle                     | <input type="checkbox"/> 371 Truth in Lending                           | <input type="checkbox"/> 830 Patent                | <input type="checkbox"/> 850 Securities/Commodities Exchange                           |
| <input type="checkbox"/> 160 Stockholders Suits                                   | <input type="checkbox"/> 355 Motor Vehicle Product Liability   | <input type="checkbox"/> 380 Other Personal Property Damage             | <input type="checkbox"/> 840 Trademark             | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            |
| <input type="checkbox"/> 190 Other Contract                                       | <input checked="" type="checkbox"/> Other Personal Injury      | <input type="checkbox"/> 385 Property Damage Product Liability          |  | <input type="checkbox"/> 891 Agricultural Acts   |
| <input type="checkbox"/> 195 Contract Product Liability                           |  |   |  | <input type="checkbox"/> 892 Economic Stabilization Act                                |
| REAL PROPERTY   | CIVIL RIGHTS   | PRISONER PETITIONS  | SOCIAL SECURITY                                    |  |
| <input type="checkbox"/> 210 Land Condemnation                                    | <input type="checkbox"/> 441 Voting                            | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus   | <input type="checkbox"/> 861 HLA (1395f)           | <input type="checkbox"/> 893 Environmental Matters                                     |
| <input type="checkbox"/> 220 Foreclosure  | <input type="checkbox"/> 442 Employment                        | <input type="checkbox"/> 530 General                                    | <input type="checkbox"/> 862 Black Lung (923)      | <input type="checkbox"/> 894 Energy Allocation Act                                     |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                               | <input type="checkbox"/> 443 Housing/ Accommodations           | <input type="checkbox"/> 535 Death Penalty                              | <input type="checkbox"/> 863 DIWC/DIWW (405(g))    | <input type="checkbox"/> 895 Freedom of Information Act                                |
| <input type="checkbox"/> 240 Torts to Land  | <input type="checkbox"/> 444 Welfare                           | <input type="checkbox"/> 540 Mandamus & Other                           | <input type="checkbox"/> 864 SSID Title XVI        | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 245 Tort Product Liability                               | <input type="checkbox"/> 440 Other Civil Rights                | <input type="checkbox"/> 550 Other                                      | <input type="checkbox"/> 865 RSI (405(g))          | <input type="checkbox"/> 950 Constitutionality of State Statutes                       |
| <input type="checkbox"/> 290 All Other Real Property                              |  |   |  | <input type="checkbox"/> 890 Other Statutory Actions                                   |
| VI. ORIGIN  | (PLACE AN X IN ONE BOX ONLY)                                   |   |  |  |
| <input type="checkbox"/> 1 Original Proceeding                                    | <input checked="" type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court                | <input type="checkbox"/> 4 Reinstated or Reopened  | <input type="checkbox"/> 5. Transferred from another district (specify)                |
|   |  |   |  | <input type="checkbox"/> 6. Multidistrict Litigation                                   |
|   |  |   |  | <input type="checkbox"/> 7. Judge from Magistrate Judgment                             |

## VII. REQUESTED IN

CHECK IF THIS IS A  
□ UNDER F.R.C.P. 23

CLASS ACTION

DEMAND \$

Check YES only if demanded in complaint:  
JURY DEMAND:  YES  NOVIII. RELATED CASE(S)  
IF ANY (See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT